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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,529	12/16/1999	NOSAKHARE D. OMOIGUI	MS1-420US	8985
22801	7590	02/21/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			SALCE, JASON P	
			ART UNIT	PAPER NUMBER

2614

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding..

Office Action Summary

Application No.

09/465,529

Applicant(s)

OMOIGUI, NOSAKHARE D.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,15-37 and 39-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13,15-37 and 39-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-3, 5-13, 15-37 and 39-57 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has stated in the arguments dated 11/23/2005 that the Examiner indicated that the amended claims are defining over Alexander. The examiner disagrees and notes that the examiner stressed to the Applicant that the claims are broad and multiple interpretations could be inferred from the claims because of the broad nature of the claims.

For example, the examiner notes that the claims limitation "electronic presentations" is so broad, that not only could one interpretation consist of the actual television program that the viewer is watching, but also could be interpreted as multiple program listings and any other type of listing that can be displayed by a electronic program guide (EPG). Therefore, the examiner notes that an "electronic presentation" is anything that can be displayed on a display device, such as a television.

After further inspection of the claim limitations and the added amendments, the examiner notes that a majority of the claims read solely on the Alexander prior art reference of record used in the previous Office Action's rejection.

The Applicant explained (in the interview conducted on 11/02/2005) to the examiner how the invention of the instant application is unique because the viewer-defined preferences are defined in terms of events, which are representative of actual event occurring in a television program (e.g. if Seinfeld is being presented, then the

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event is the Kramer and Jerry performing a dialog, as shown in Figure 6 of the instant application). The examiner notes that the claim limitations simply state that an event describes an activity or action that can take place within the electronic presentation itself, which is broad enough for the disclosure of Alexander to provide a teaching of these limitations. Alexander teaches that one of the methods used for monitoring electronic presentations is to monitoring the activity being performed in the program being presented, where golf, tennis or even basketball can be monitored (see Column 29, Lines 45-49). Clearly this represents an activity or action that is taking place within an electronic presentation itself.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 8-13, 15, 18-22, 25-28, 31-34, 36-37, 39-40, 44-51, 55-57 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 1, Alexander discloses a viewing management method for managing viewing of multiple live electronic presentations (see Figure 1 and Column 28,

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Lines 30-44 and Column 29, Lines 31-67 for collecting and managing information of multiple live electronic presentations and Column 30, Lines 45-61 for managing the viewing of the multiple live electronic presentations based on the information collected and managed).

Alexander also discloses simultaneously monitoring two or more electronic presentations that are concurrently broadcast (see Column 28, Lines 30-44 and Column 29, Lines 12-67 for monitoring multiple electronic presentations, such as changing from one channel to another, therefore teaching simultaneously monitoring two or more electronic presentations), wherein said monitoring comprises monitoring data that does not comprise content that can be presented to a viewer (see Column 28, Lines 42-43 for monitoring whether a viewer changed a channel while in a particular EPG mode (the examiner notes that this information/content will not be presented to the viewer and is only used to record and analyze viewer preferences)). The examiner further notes that duration of the viewing of each program is monitored at Column 29, Lines 50-55, which is also not presented to a viewer.

Alexander also discloses automatically switching between displays of the two or more electronic presentations based upon the viewer preferences (see Column 14, Lines 58-67 for automatically tuning to another channel (from a first to a second television program, thereby teaching two or more) based on a recommendation presented to the viewer based on the viewer preferences defined in the viewer profile), wherein the viewer-defined preferences are defined in terms of events that can occur within electronic presentations (see Column 28, Lines 30-44 and Column 29, Lines 45-

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49 where the preferences can be defined by an event that occurs within an electronic presentation, such as the identification of the programming that is being (or was) displayed (golf being played)), wherein at least some of said events describe some activity or action that can take place within the electronic presentation itself (see Column 29, Lines 45-49 where an event can be golf or basketball, which is an activity being performed in the electronic presentation itself).

Referring to claim 2, Alexander further discloses that the viewer defined preferences are defined in terms of specific electronic presentation titles (see Column 28, Lines 49-52 for recording the viewer preferences defined in terms of what was displayed in each window of the EPG when a change occurs, therefore since the EPG of Figure 1 contains program titles, Alexander clearly teaches that the viewer preferences are represented by electronic presentation titles).

Referring to claim 3, Alexander clearly discloses that the viewer-defined preferences are defined in terms of topics that can occur within electronic presentations (see Column 29, Lines 43-47 for viewer preferences being defined in terms of topics that occur within the electronic presentations).

Referring to claim 5, Alexander clearly discloses that the viewer-defined preferences are defined in terms of topics that can occur within electronic presentations (see the rejection of claim 3).

Referring to claim 8, Alexander discloses that automatically switching comprises enabling a PIP display for the viewer in which at least two of the electronic presentations are contemporaneously displayed for the viewer (see Column 15, Lines 4-

11 for when a notification is displayed to a viewer (which allows a viewer to automatically tune to and display another channel) that a PIP window can display both electronic presentations, including the notification and the real-time television program, where the notification allows a viewer to view another television program).

Referring to claim 9, Alexander discloses that the user's system is a computer-based system (see Column 5, Lines 20-46), thereby providing a computer to be programmed with instructions to perform the method of claim 1.

Referring to claim 10, see the rejection of claim 9 and further note that Alexander discloses that the user's system further contains a RAM and ROM (see Column 5, Line 25). Therefore, Alexander clearly teaches a memory (computer-readable media), which contains the instructions to perform the method of claim 1.

Referring to claim 11, see the rejection of claim 1 and further note that by switching between displays of two or more electronic presentation (see the rejection of claim 1) a viewer is clearly notified that one or more electronic presentations has satisfied a viewer defined preference.

Referring to claims 12-13, 15 and 18-19, see the rejection of claims 2-3, 5 and 8-9, respectively.

Referring to claim 20, see the rejection o claims 1 and 11 and further note that the additional limitations of sending at least one viewer request to an encoder and evaluating, with the encoder, one or more electronic presentations that are being broadcast to determine whether any of the viewer-defined preferences are satisfied are clearly met by Alexander by the use of a headend receiving and analyzing the viewer

profile information (see Column 29, Lines 14-21 and Lines 31-34 and Column 31, Lines 25-33).

Referring to claim 21, see the rejection of claim 1 for automatically displaying the electronic presentation that is satisfied by the viewer-defined preferences.

Referring to claim 22, Alexander discloses displaying indicia for the viewer that is associated with the viewer-defined preference that was satisfied (see Column 14, Lines 58-67 for notifying the user by asking the user (by displaying indicia) if the other program can be viewed at a later time).

Referring to claim 25, see the rejection of claim 20 and further note that Alexander teaches receiving one or more viewer requests from one or more viewers, the viewer requests containing viewer-defined preferences (see Column 29, Lines 14-20 for collecting viewer profile information and Column 28, Lines 30-45 for the collected information containing viewer requests) that are to be used to evaluate a plurality of different live electronic presentations (see Column 29, Lines 31-36 for analyzing the viewer profile data).

Referring to claims 26-27, see the rejection of claims 21-22, respectively.

Referring to claim 28, see the rejection of claim 8. Further note that one of the programs displayed comprises a program that is associated with the viewer-defined preference that is satisfied (further note Column 14, Line 60 through Column 15, Line 11 and Column 31, Lines 11-24 for displaying the determined program in the PIP and another program in the remaining TV display area (or vice versa)).

Referring to claim 31, Alexander discloses receiving information describing the electronic presentations as they are being broadcast (see Column 29, Lines 36-55 for receiving and evaluating various types of information describing the electronic presentations as they are being broadcast, for example, one type of information specifically describes what time (or a duration of when) a program was watched, which clearly represents an electronic presentation as it is being broadcast).

Alexander also discloses receiving updated information describing the electronic presentations as they are being broadcast (see Column 29, Lines 22-24 for capturing and updating viewer profile information in an on-going basis).

Alexander also discloses evaluating all of the information that is received in light of the viewer-defined preferences (see Column 29, Lines 56-67 and Column 30, Lines 59-67 for evaluating and customizing an EPG according to a viewer-defined preferences, which are received from updated Viewer Profile information).

Referring to claims 32-33, see the rejection of claims 9-10, respectively.

Referring to claim 34, see the rejection of claim 20 and 25 and further note that Alexander discloses sending the viewer request to one or more computing devices (see Column 29, Lines 14-21 for sending the viewer profile to a computer at a headend).

Referring to claims 36-37 and 39-40, see the rejection of claims 1-3 and 10, respectively.

Referring to claim 44, Alexander discloses a viewing management method for managing viewing of multiple live electronic presentations (see Figure 1 and Column 28, Lines 30-44 and Column 29, Lines 31-67 for collecting and managing information of

multiple live electronic presentations and Column 30, Lines 45-61 for managing the viewing of the multiple live electronic presentations based on the information collected and managed).

Alexander also discloses monitoring viewing habits of one or more viewers of live electronic presentations (see Column 28, Line 11 through Column 29, Line 11 for collecting viewer profile information) to determine particular events within the electronic presentations that the viewers are likely to want to view (see Column 30, Line 45 through Column 32, Line 21 for various methods of determining from the viewer profile information particular events within the electronic presentations that the viewers preference to watch), wherein at least some of said events pertains to some activity or action that can take place within the electronic presentation itself (see Column 29, Lines 45-49 where an event can be golf or basketball, which is an activity being performed in the electronic presentation itself).

Alexander also discloses ascertaining from data that does not comprise content that can be presented to a viewer (see Column 28, Lines 42-43 for monitoring whether a viewer changed a channel while in a particular EPG mode (the examiner notes that this information/content will not be presented to the viewer and is only used to record and analyze viewer preferences)), whether said one or more viewers would likely want to view a particular event (see again Column 30, Line 45 through Column 32, Line 21 for various methods of determining from the viewer profile information particular events within the electronic presentations that the viewers preference to watch). The examiner

further notes that duration of the viewing of each program is monitored at Column 29, Lines 50-55, which is also not presented to a viewer.

Alexander also discloses notifying one or more viewers when it appears that an event (for example a program that contains a sport that the viewer prefers) is occurring within an electronic presentation that the viewer is not viewing but would likely want to view (see Column 14, Lines 58-67 for utilizing the viewer profile to determine that the viewer may be interested in viewing a program that is not being viewed, and notifying the viewer if he or she would like to automatically make the switch to the other program).

Referring to claim 45, Alexander further discloses that the notifying step comprises automatically displaying the event for a viewer (see Column 14, Lines 65-66 for automatically tuning to the other program).

Referring to claim 46, Alexander further discloses that notifying comprises automatically displaying indicia of the electronic presentation, but not the electronic presentation for a viewer (see Column 14, Lines 62-64 for the EPG displaying indicia in the form of asking the user if he or she would like to view the program, therefore, indicia of the electronic presentation is display, but not the electronic presentation itself).

Referring to claim 47, Alexander further discloses automatically displaying the event in a PIP window on a viewer device (see Column 31, Lines 9-24 and Column 15, Lines 4-11 for examples of displaying a program in a PIP window).

Referring to claim 48, Alexander further discloses that monitoring comprises establishing a correlation between the time that a viewer views a particular electronic

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presentation (see Column 29, Lines 50-55 for tracking the time a viewer views a particular electronic presentation) and the events that transpire during that time (see Column 29, Lines 44-50 for tracking an event that transpired, such as an actor that appears in the television program).

Referring to claim 49, Alexander further discloses evaluating viewer habits over a plurality of time frames during which the viewer is viewing one or more electronic presentations (see Column 29, Lines 50-55 for tracking times the viewer watches television programs).

Referring to claims 50-51, see the rejection of claims 9-10, respectively.

Referring to claim 55, Alexander discloses a user interface for use in an interactive entertainment system (see Figure 1).

Alexander also discloses a processor (see Column 5, Lines 21-25) and an application executing on the processor (see Column 5, Lines 21-35 which describes that the processor is capable of displaying the EPG in Figure 1).

Alexander further discloses presenting a plurality of fields (see the EPG in Figure 1 which contains a plurality of fields), one of which displaying a number of titles of programs that can be selected by a viewer (see field 22 in Figure 1, where only program titles are displayed), another of which displaying indicia that can be selected to define viewer preferences (see the "Watch" icon 44 in Figure 1, which is capable of allowing a user to select television program that can be later automatically tuned to for viewing (see Column, 25, Lines 55-59) and also note that any action performed in the EPG can be monitored, therefore any field in the EPG can present indicia that can be selected to

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define viewer preferences (see Column 28, Line 11 through Column 29, Line 11)) for simultaneously monitoring two or more of the programs that are selected by the viewer (see Column 29, Line 12 through Column 30, Line 44 for using the display indicia selected by the viewer (which defines viewer preferences) for monitoring programs selected by the viewer), where said monitoring comprises monitoring at least data that does not comprise content that can be presented to the viewer (see Column 28, Lines 42-43 for monitoring whether a viewer changed a channel while in a particular EPG mode (the examiner notes that this information/content will not be presented to the viewer and is only used to record and analyze viewer preferences) and further note that duration of the viewing of each program is monitored at Column 29, Lines 50-55, which is also not presented to a viewer) and which comprises events that can occur within said two or more programs (see Column 29, Lines 44-50 where the data monitored comprises a theme or subject, which both describes an event that occurs within the programs), wherein at least some of said events describe some activity or action that can take place within the electronic presentation itself (see Column 29, Lines 45-49 where an event can be golf or basketball, which is an activity being performed in the electronic presentation itself).

Alexander also discloses an input device operable to enable a user to select a particular electronic presentation for continuous play viewing (see Column 4, Lines 18-22 for selecting a program in the EPG and displaying the program selected).

Referring to claim 56, Alexander discloses that the indicia is associated with predefined aspects of the programs (see Figure 1 for various aspects of the indicia

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contained in the EPG representing a title of the program or a description thereof, which clearly teaches predefined aspects of the programs).

Referring to claim 57, Alexander discloses that the indicia is associated with viewer-definable aspects of the programs (see Figure 1 for the "Watch" and "Record" indicia, which represents indicia that is associated with a viewer-definable aspect of the programs).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-7 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Herz et al. (U.S. Patent No. 6,088,722).

Referring to claim 6, Alexander discloses all of the limitations in claims 1, but fails to teach that viewer-defined preferences can be defined in terms of priorities assigned to two or more electronic presentations.

Herz discloses that the viewer-defined preferences can also contain weight values, which represent a priority for which types of viewer-defined preferences are

more important than others (see Column 21, Lines 25-35 for Mary containing a higher weight for romance than high-tech).

At the time the invention was made, it would have been obvious to a person or ordinary skill in the art, to modify the viewer-defined preferences, as taught by Alexander, to further contains weight values, as taught by Herz, for the purpose of indicating the highest affinity for an associated characteristic (see Column 11, Lines 33-34 of Herz) which allows a viewer to further characterize the attractiveness of each available source of video programming or data to each customer (see Column 4, Lines 25-38 of Herz).

Referring to claim 7, see the rejection of claim 6 and further note that romance, high-tech and violence clearly define event that can occur within two or more electronic presentations.

Referring to claims 16-17, see the rejection of claims 6-7, respectively.

4. Claims 23-24, 29-30, 35, 41-43 and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Hendricks et al. (U.S. Patent No. 5,659,350).

Referring to claim 23, Alexander discloses all of the limitation of claim 20, as well as receiving viewer requests originating from a plurality of different viewers (see Column 29, Lines 14-21 and Lines 31-34 and Column 31, Lines 25-33), however, Alexander simply states that the headend can receive and process the user requests, and does

not teach, in detail, the type of system that can be contained at the headend and used for processing the viewer requests.

Hendricks discloses that a headend can include an encoder (operations center 202) and a server (headend 208 with network controller 214), which is found in Figure 4 of the Hendricks Patent 5,600,364, which is herein incorporated by reference (see Column 1, Lines 11-16).

Hendricks further discloses receiving viewer requests with a server (network controller 214) at Column 10, Lines 20-24, the viewer requests originating from a plurality of different viewers (note that at Column 10, Lines 20-24 the requests that originate at the viewer's set-top terminal and are received by the headend's network controller 214 are from each set-top terminal 220). The examiner notes that these passages can be found in the Hendricks Patent 5,600,364, which is herein incorporated by reference (see Column 1, Lines 11-16)

Hendricks also discloses maintaining at least a list of viewers and their viewer-defined preferences in the server (see Column 29, Line 54 through Column 30, Line 34 for a Viewer Profile Database 314, which stores a list of viewers and the preferences for each viewer in the network controller 214). The examiner notes that these passages can be found in the Hendricks Patent 5,600,364, which is herein incorporated by reference (see Column 1, Lines 11-16).

Hendricks also discloses sending various types of information from the server to the encoder (see arrow 211 in Figure 4, which indicates the transfer of control information to and from the server and also note Column 10, Lines 20-24 and Column

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11, Lines 35-39 for receiving information from the set-top terminal 220 at network controller 214 and forwarding the information to the operations center 202 (the encoder)). The examiner notes that these passages can be found in the Hendricks Patent 5,600,364, which is herein incorporated by reference (see Column 1, Lines 11-16).

Further note that the '350 Hendricks patent specifically teaches that the viewer requests can be transmitted from the server (headend 208) to the encoder (operations center 202) at Column 15, Lines 28-45.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the headend, as taught by Alexander, to include the detailed broadcasting and viewer request processing system, as taught by Hendricks, for the purpose of calculating peak viewing times for different categories of shows in order to produce targeted video and menus for each subscriber (see Column 15, Lines 46-55 of Hendricks).

Claim 24 corresponds to claim 23, where Hendricks further teaches sending a notification from the encoder to the server (see Column 38, Lines 31-35 for sending a promo video from the encoder (operations center 202) to the viewer (set top box 220) and further note that this signal must pass through headend 208 as described at Column 9, Lines 2-5).

Hendricks also discloses receiving the notification sent from the encoder (see again Column 38, Lines 31-35 for sending a promo video from the encoder (operations center 202) to the viewer (set top box 220) and further note that this signal must pass

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through headend 208 as described at Column 9, Lines 2-5, therefore the headend/server 208 would receive the notification (promo video)).

Hendricks also discloses sending a notification from the server to the viewer (see again Column 38, Lines 31-35 for sending a promo video from the encoder (operations center 202) to the viewer (set top box 220) and further note that this signal must pass through headend 208 as described at Column 9, Lines 2-5, therefore the viewer receives the promo video (notification) for display).

Referring to claim 29, see the rejection of claims 23-24.

Referring to claim 30, see the rejection of claims 23-24.

Referring to claim 35, see the rejection of claim 24.

Referring to claim 41, see the rejection of claims 1 and 11 and further note that Alexander teaches one or more viewing devices and one or more computing devices communicatively linked with the one or more client devices (see Column 29, Lines 14-21 and Lines 31-34 for the viewer sending the viewer profile information collected to a computer at the headend, which also analyzes the profile information) and that the computing devices are capable of performing the monitoring step (see again the rejection of claims 1 and 11 and how the headend is capable of processing the profile information (discussed above)), as well as how the viewer-defined preferences are defined (see again the rejection of claims 1 and 11).

Alexander is silent as to how the analyzed information is specifically communicated from the headend to the viewer when the profile analysis takes place at the headend.

Hendricks further discloses sending a notification from the server to the viewer (see again Column 38, Lines 31-35 for sending a promo video from the encoder (operations center 202) to the viewer (set top box 220) and further note that this signal must pass through headend 208 as described at Column 9, Lines 2-5, therefore the viewer receives the promo video (notification) for display).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the headend, as taught by Alexander, to include the detailed broadcasting and viewer request processing system, as taught by Hendricks, for the purpose of calculating peak viewing times for different categories of shows in order to produce targeted video and menus for each subscriber (see Column 15, Lines 46-55 of Hendricks).

Claim 42 corresponds to claim 41, where Alexander discloses displaying indicia for the viewer that is associated with the viewer-defined preference that was satisfied (see Column 14, Lines 58-67 for displaying another program (indicia) if a determination is made (from analyzing the viewer profile) that the user may be interested in viewing another program).

Claim 43 corresponds to claim 41, where Alexander teaches that the indicia comprises display of the live electronic presentation (see the rejection of claim 42 for the indicia comprising the display of another program).

Referring to claim 52, see the rejection of claim 41 and 44 and further note that Alexander is silent as to how the analyzed information is specifically communicated from the headend to the viewer when the profile analysis takes place at the headend.

Hendricks further discloses sending a notification from the server to the viewer (see again Column 38, Lines 31-35 for sending a promo video from the encoder (operations center 202) to the viewer (set top box 220) and further note that this signal must pass through headend 208 as described at Column 9, Lines 2-5, therefore the viewer receives the promo video (notification) for display).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the headend, as taught by Alexander, to include the detailed broadcasting and viewer request processing system, as taught by Hendricks, for the purpose of calculating peak viewing times for different categories of shows in order to produce targeted video and menus for each subscriber (see Column 15, Lines 46-55 of Hendricks).

Claim 53 corresponds to claim 52, where Alexander teaches that the client-viewing device comprises a television (see Column 3, Lines 3-7).

Claim 54 corresponds to claim 52, where Alexander teaches that the client-viewing device comprises a computer display (see Column 3, Lines 3-7).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

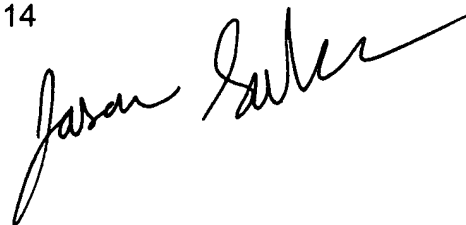
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

February 2, 2006

A handwritten signature in black ink, appearing to read "Jason Salce", is written over the printed name and title of the examiner.